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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,348	05/11/2005	Stephen Walter Marlow	RD8145US PCT	3134
43693 7590 11/12/2008 INVISTA NORTH AMERICA S.A.R.L. THREE LITTLE FALLS CENTRE/1052 2801 CENTERVILLE ROAD WILMINGTON, DE 19808				
EXAMINER TENTON, LEO B				
ART UNIT 1791		PAPER NUMBER		
NOTIFICATION DATE 11/12/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Kathy.L.Crew@invista.com
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Office Action Summary

Application No.

10/506,348

Applicant(s)

MARLOW, STEPHEN WALTER

Examiner

Leo B. Tentoni

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-54 and 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-54 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 August 2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 41-43, 47-51, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al (U.S. Patent 5,439,626 A) in combination with Ortega et al (U.S. Patent 7,060,149 B2).

Bennett et al (see the entire document, in particular, col. 1, lines 16-27; col. 4, line 17 to col. 5, line 7; col. 11, lines 17-38; col. 12, lines 8-46; col. 15, lines 53-57; col. 17, lines 1-23; Example 19) teaches a process of making a polyamide mixed

yarn as claimed, (including the yarn weight), except that Bennett et al does not explicitly teach simultaneously spinning from separate spin packs. Ortega et al (see the entire document, in particular, col. 3, lines 34-60; col. 5, lines 4-5 and 39-52; claim 1) teaches a process of making a mixed polyamide yarn including simultaneously spinning from separate spin packs, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Bennett et al in view of Ortega et al principally in order to manufacture fabrics having desired characteristics in terms of thickness, permeability, tensile strength and hand.

4. Claims 44-46, 52 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al (U.S. Patent 5,439,626 A) in combination with Ortega et al (U.S. Patent 7,060,149 B2) as applied to claims 41-43, 47-51, 53 and 54 above, and further in view of Nakayama et al (U.S. Patent 3,939,636 A).

Bennett et al (see the entire document, in particular, col. 1, lines 16-27; col. 4, line 17 to col. 5, line 7; col. 11, lines 17-38; col. 12, lines 8-46; col. 15, lines 53-57; col. 17, lines 1-23; Example 19) teaches a process of making a polyamide mixed yarn as claimed, (including the yarn weight), except that Bennett et al does not explicitly teach a polyamide mixed yarn which is dyeable by acid (or anionic) dyes. Nakayama et al (see the entire document, in particular, col. 1, lines 39-50; Example 27) teaches a process of making a polyamide mixed yarn which is dyeable by acid (or anionic) dyes, and such would have been obvious to one

of ordinary skill in the art at the time the invention was made in the process of Bennett et al in view of Nakayama et al principally in order to manufacture fabrics having a dyed color of excellent clarity.

5. Claims 44-46, 52 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al (U.S. Patent 5,439,626 A) in combination with Ortega et al (U.S. Patent 7,060,149 B2) as applied to claims 41-43, 47-51, 53 and 54 above, and further in view of Burton et al (U.S. Patent 5,804,115 A).

Bennett et al (see the entire document, in particular, col. 1, lines 16-27; col. 4, line 17 to col. 5, line 7; col. 11, lines 17-38; col. 12, lines 8-46; col. 15, lines 53-57; col. 17, lines 1-23; Example 19) teaches a process of making a polyamide mixed yarn as claimed, (including the yarn weight), except that Bennett et al does not explicitly teach a polyamide mixed yarn which is dyeable by acid (or anionic) dyes. Burton et al (see the entire document, in particular, col. 4, line 59 to col. 5, line 38) teaches a process of making a polyamide mixed yarn which is dyeable by acid (or anionic) dyes (and that different polyamides have different dyeing characteristics), and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Bennett et al in view of Burton et al principally in order to manufacture yarns from differently colored filaments.

Response to Arguments

6. Applicant's arguments filed on 14 August 2008 have been fully considered but they are not persuasive.

7. Applicant argues (page 5) that Bennett et al fails to disclose mixed filament yarns including different polyamide compositions. Examiner responds that Bennett et al does disclose this feature (see col. 12, lines 8-46, col. 17, lines 1-23 and Example 19 of Bennett et al).

8. Applicant argues (page 5) that Nakayama et al provides no disclosure of a mixed yarn having both anionic and cationic dyeable nylon. Examiner responds that Bennett et al teaches a mixed yarn including at least cationic dyeable nylon, Nakayama et al teaches a mixed yarn including at least anionic dyeable nylon, and the combination of the disclosures of Bennett et al and Nakayama et al results in a mixed yarn including anionic dyeable nylon and cationic dyeable nylon.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leo B. Tentoni/
Primary Examiner, Art Unit 1791